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SUMMARY OF SBA PROGRAMS

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LETTER OF TRANSMITTAL

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C., February 9, 1983.

ALL MEMBERS,
Committee on Small Business,
U.S. House of Representatives,
Washington, D.C.

DEAR COLLEAGUE: The Committee on Small Business has for some years published a summary of SBA programs, outlining their principal purposes, terms and eligibility requirements. In addition to describing under one cover all major SBA programs, this summary has in some instances been the only printed source of information on some lesser known agency programs.

The Omnibus Reconciliation Act of 1981, Public Law 97–35, and various regulatory revisions have made extensive changes in many SBA programs since the Committee's last summary was published in February 1981. Accordingly, I directed the Committee's staff to revise and update the summary to reflect these changes. This revision has been completed and published as a committee print. Additional information is available from any SBA office.

Best wishes,

PARREN J. MITCHELL,
Chairman.

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SUMMARY OF SBA PROGRAMS

CHAPTER 1

SBA ASSISTANCE IN GENERAL

The Small Business Administration makes direct loans and guarantees loans made by banks and other financial institutions to small concerns; licenses and regulates small business investment companies, a source of equity and venture capital assistance for small concerns; guarantees payments of small businesses for required pollution control facilities; guarantees surety bonds for small contractors; provides management and technical assistance to firms receiving SBA financial assistance and to other small concerns; and provides procurement assistance help to small concerns in buying from and selling to the Federal Government.

Also, Public Law 94–305 established within S A an Office of Advocacy and a Chief Counsel for Advocacy who is appointed by the President and confirmed by the Senate.

Among its responsibilities, this office:

(1) serves as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the SBA and any other Federal agency which affects small businesses;

(2) counsels small businesses on how to resolve questions and problems concerning the relationship of small business to the Federal Government;

(3) develops proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicates such proposals to the appropriate Federal agencies;

(4) represents the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

(5) enlists the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

SBA's Office of Advocacy is also responsible for monitoring the implementation of Public Law 96–354, the Regulatory Flexibility Act.

CHAPTER 2

SMALL BUSINESS ADMINISTRATION FINANCIAL ASSISTANCE

SBA's specific lending objectives are to (1) stimulate small business in deprived areas, (2) promote small business' contribution to economic growth, and (3) promote minority enterprise opportunity. SBA business loans help small concerns get started or expand and grow.

Small contractors, manufacturers, wholesalers, retailers, service concerns, and other businesses, including agricultural enterprises, may use SBA assistance to construct, expand, or convert facilities, purchase buildings, equipment, materials or obtain working capital.

SBA may not make a loan if a business can obtain funds on a reasonable basis from a bank or other private source. Applicants must seek private financing from a local bank or other lending institution before applying to SBA.

Applicants for loans must agree to comply with SBA regulations prohibiting discrimination in employment or services to the public, based on race, color, religion, national origin, sex, or marital status.

WHAT IS A SMALL BUSINESS?

For loan purposes, SBA defines a small business as a concern, including its affiliates, which is independently owned and operated, not dominant in its field and which falls within employment or sales standards developed by the agency. For most industries, these standards are as follows:

Manufacturing.—Small if the number of employees does not exceed 1,500, depending on the industry in which the applicant is primarily engaged.

Wholesaling.—Small if the annual sales do not exceed $9.5 to $22 million, depending on the industry.

Services.—Small if the annual receipts do not exceed $2 million to $8 million, depending on the industry in which the applicant is primarily engaged.

Construction.—General construction: small if the annual receipts do not exceed $9.5 million for the 3 most recently completed fiscal years. Special trade construction: small if the average annual receipts do not exceed $1 million to $2 million for the 3 most recently completed fiscal years, depending on the industry.

Retailing.—Small if the annual sales or receipts do not exceed $2 to $7.5 million, depending on the industry.

Agriculture.—Small if the annual receipts do not exceed $1 million.

It should be noted that there are different size standards definitions of a small business depending upon the type of assistance which the applicant is seeking from SBA, i.e., loans or loan guarantees, Government procurement, Government sales, surety bond guarantee assistance, etc.

SBA has proposed a complete revision of these standards which would be based solely on the number of employees (except in agriculture). Also, standards would be uniform from program to program. This proposal, however, has not been finalized as of this printing.

ELIGIBILITY REQUIREMENTS

There are general requirements all applicants for SBA loan assistance must meet:

1. Good character.

2. Ability to operate his or her business successfully.

3. Sufficient capital in an existing firm so that, with an SBA loan, he or she can operate on a sound financial basis.

4. The loan is of such sound value and so secured as reasonably to assure repayment.

5. Past earnings record and future prospects of the firm indicate ability to repay the loan and other fixed debt, if any, out of profits.

6. Provide from his or her own resources sufficient funds to have a reasonable amount at stake to withstand possible losses, particularly during the early stages, if the venture is a new business.

LOAN TERMS

Amount of Loans

Guaranteed Loans

These are loans made by a bank or other financial institution with SBA guaranteeing the lender to pay part of any loss sustained by the lender. SBA emphasizes maximum private lender participation in each guaranteed loan which is made and serviced by the financial institution.

If financing is not otherwise available on reasonable terms, SBA may guarantee up to $500,000 of a commercial loan.

If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000.

The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

Immediate Participation Loans

If the entire loan is not available from a private lender and if an SBA guaranteed loan is not available, SBA will then consider advancing funds on an immediate participation basis with a bank (SBA and the bank each put up a share of the money). The Agency's share of an immediate participation loan may not, at the present time, exceed $150,000 except in unusual situations.

Direct Loans

Direct loans usually may not exceed $150,000 and at times may not be available due to lack of adequate funding. SBA direct loans are made and serviced by SBA personnel.

Interest

Guaranteed Loans

Within certain limitations imposed by SBA, the interest rate on guaranteed loans is set by the lending institution provided it is legal under State law. There is a charge for the SBA guarantee; the financing institution pays 1 percent of the amount guaranteed and currently may pass this cost to the borrower. The interest rate on a guaranteed loan may not be more than 2¾ percent above the prime rate.

Lending institutions also may utilize a fluctuating rate of interest. The note must specify an initial interest rate not in excess of the published SBA maximum, but it may subsequently exceed the ceiling, depending on the fluctuation of the rate to which the rate on the note is tied, provided that the maturity of the loan is 7 years or more. The usual tie rate is the prime rate published periodically in, for example, the Wall Street Journal.

When SBA purchases its share of a defaulted loan, the rate of interest to the borrower on SBA's share shall be the same as the rate of interest provided in the note. On those loans with a fluctuating interest rate, the interest charged by SBA shall be at that rate in effect at the time of default where a default has occurred, or at that rate in effect at the time of purchase where no default has occurred.

Immediate Participation Loans

Within certain limitations imposed by SBA, the interest rate on the bank's portion of immediate participation loans is set by the lending institution provided it is legal under State law. There is a charge for the SBA guarantee; the financing institution pays 1 percent of the amount guaranteed and currently may pass this cost to the borrower. The interest rate on the lending institution's share of an immediate participation loan may not exceed 1¾ percent more than the prime interest rate.

Interest rates on SBA's portion of immediate participations may not exceed a rate set by a statutory formula relating to the average cost to the Government of borrowing money. As of January 1, 1983, this rate was set at 11⅝ percent.

Direct Loans

Interest rates on most SBA direct loans may not exceed a rate set by a statutory formula relating to the average cost to the Government of borrowing money. As of January 1, 1983, this rate was set at 11⅝ percent.

Maturity

SBA business loans may be made for up to 25 years plus such time as is needed to complete the acquisition of real estate or the construction of any facilities financed by the loan. However, working capital loans are generally limited to 5–7 years.

Generally, loans must be repaid in equal monthly installments including principal and interest except where the borrower's income is received on an annual or seasonal basis. All or any part of a loan may be repaid without penalty before it is due. The lending institution determines the applicant's repayment ability based upon an analysis of past and projected earnings, the overall debt structure, and the fixed annual obligations the applicant must meet if the loan is approved.

Collateral

The Small Business Act requires that regular business loans be of such sound value or so secured as reasonably to assure repayment. Security for a loan may consist of one or more of:

(a) Mortgage on land, buildings and/or equipment;
(b) An assignment of warehouse receipts for marketable merchandise;
(c) A mortgage on chattels;
(d) Guarantees or personal endorsements, and in some instances, assignment of current receivables.

A pledge or mortgage on inventories usually is not satisfactory collateral, unless the inventories are stored in a bonded or otherwise acceptable warehouse.

BUSINESS LOAN POLICY

SBA by regulation has established certain business loan policy guidelines. For instance, amusement and recreational enterprises are eligible for SBA assistance; however, they must be open to the public and properly licensed by the appropriate State or local authority.

A loan may be approved to the purchaser of an existing business if it would aid in the development of a small business, keep it in operation and/or contribute to a well-balanced national economy by facilitating ownership of small business concerns by persons whose participation in the free enterprise system has been hampered or prevented because of economic, physical or social disadvantages, or disadvantages in business or resident locations.

Generally, SBA will not grant financial assistance if:

1. The funds are otherwise available on reasonable terms from private sources or from Government sources or sale of business or personal assets, provided such sale would not cause a hardship.

2. The loan is to (a) pay off a loan to a creditor or creditors of the applicant (particularly to a bank) who are inadequately secured and in a position to sustain loss, (b) provide funds for distribution or payment to the owners of the applicant business, or (c) replace funds previously used for such purposes.

3. The loan would allow speculation in any kind of property.

4. The applicant is a nonprofit enterprise, except certain qualified handicapped assistance organizations or development companies.

5. The applicant is a newspaper, magazine, book publishing company, or similar enterprise.

6. Any of the gross income of the applicant (or of any of its principal owners) is derived from gambling activities, except for those small firms which obtain less than one-third of their income from the sale of State lottery tickets under a State license, or from gambling activities in those States where such activities are legal within the State.

7. The loan would provide funds to an enterprise primarily engaged in lending or investing.

8. The loan would finance real property that is, or is to be, held solely for investment.

9. The loan would encourage monopoly or would be inconsistent with the accepted standards of the American system of free competitive enterprise.

10. The loan would be used to relocate a business for other than sound business purposes.

MORATORIA ON SBA LOANS

In the absence of specific statutory provisions indicating contrary intent, provisions of the Small Business Act permit SBA to assume or suspend for a period of not in excess of 5 years a small business concern's obligation to make the required payments under an SBA loan, providing that without an assumption or suspension the small business would become or remain insolvent and that with the assumption or suspension the small business would become or remain a viable small business entity. The small business would be required to agree with SBA as to repaying the amounts that became due during the period of the moratorium and SBA would be authorized to extend the maturity date of the loan for a period to coincide with the moratorium. SBA is authorized to require the borrower to take such action as is appropriate to assure that the rights and interests of the lender will be safeguarded.

GENERAL BUSINESS LOANS

Purpose and Use of Proceeds

SBA direct, immediate participation and guaranteed loans may be used to construct, expand, or convert facilities, including the acquisition of land; purchase buildings, equipment, materials; obtain working capital; or to finance residential or commercial construction or rehabilitation for sale (proceeds may not be used primarily for acquisition of land).

Eligibility

A regular business loan will not be made unless the financial assistance sought is unavailable on reasonable terms from non-Federal sources. An SBA regular business loan must be of such sound value or so secured as reasonably to assure repayment.

If an applicant is unable to obtain financing on reasonable terms from a private lender and if an SBA guaranteed loan is not available, SBA will then consider advancing funds on an immediate participation basis with a bank. SBA will consider making a direct loan only when these other forms of financing are not obtainable, and funds are available for direct lending.

For business loan purposes, SBA defines a small business as a concern, including affiliates, that is for profit, independently owned and operated, not

dominant in its field and which meets employment or sales standards (size standards) developed by the Agency.

Amount, Interest Rate, and Term of Loans

Guaranteed Loans

SBA may guarantee up to $500,000 of a commercial loan. If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The maximum interest rate on guaranteed loans is 2¾ percent above the prime interest rate on loans with maturities of 7 years or more and 2¼ percent above the prime for loans with maturities of less than 7 years.

SBA business loans may be made for up to 25 years plus such time as is necessary to complete the acquisition of real estate or the construction of any facilities financed by the loan. However, working capital loans are generally limited to 5–7 years.

Direct and Immediate Participation Loans

Direct loans or SBA's share of immediate participation loans are usually limited to $150,000 although loans of $350,000 can be approved in SBA regional offices in exceptional cases. All direct loan approvals are subject to the availability of funds.

The interest rate on direct loans and SBA's share of immediate participation loans may not exceed a rate set by a statutory formula representing the average cost of government borrowing. As of January 1, 1983, this rate was set at 11⅝ percent. The maximum rate on the lending institution's share of an immediate participation loan is 1¾ percent above prime for loans with maturities of 7 years or more and 1¼ percent above prime for loans with maturities of less than 7 years.

Maturities on direct and immediate participation loans are the same as those for SBA guaranteed loans.

SEASONAL LINE OF CREDIT PROGRAM

Purpose and Use of Proceeds

These loans are for small concerns which have a seasonal loan requirement. Use of the loan proceeds is restricted to meeting increased working capital needs arising from a seasonal upswing in business.

Eligibility

To qualify under this program, an applicant must have been in business at least 12 months prior to application, and must be an eligible small business concern as described in SBA Rules and Regulations, and also qualify as a small business under SBA employment or sales size standards. An applicant's personal and/or business assets are to be used to the greatest extent feasible without causing undue hardship. Requirements regarding availability of private assistance, security, and collateral are the same as those for SBA's regular business loan program.

Amount, Interest Rate and Term of Loan

This assistance is available only under SBA's guarantee program. The SBA may guarantee up to $500,000; however, the amount of the loan cannot exceed the amount needed to overcome working capital deficiencies arising from a seasonal increase in business.

The maximum maturity of these loans is 12 months. The interest rate on these loans is set by the lending institution, subject to a maximum set by SBA. The maximum rate is 2¼ percent above the prime interest rate.

CONTRACT LOAN PROGRAM

Purpose and Use of Proceeds

This program provides guarantee financing exclusively. Use of loan proceeds is limited to labor and materials needed to perform a given contract.

Eligibility

Construction contractors, manufacturers and service contractors who provide specific services under an assignable contract are eligible. They must have been in business for 12 months before making application and must be unable to obtain the required financial assistance without SBA's guarantee. Eligible businesses may apply prior to or after a contract has been received. Detailed information on the bid or contract must be available at the time of application.

Amount, Interest Rate and Term of Loan

SBA may guarantee up to $500,000; however, the amount of the loan cannot exceed the cost of material and labor needed to comply with the terms of the contract. The bank sets the interest rate subject to the SBA limit. The maximum rate is 2¼ percent more than the prime interest rate. These loans are usually for no more than 12 months; however, in the case of large contracts, SBA may approve a term of up to 18 months.

SMALL BUSINESS EMPLOYEE OWNERSHIP ASSISTANCE

Purpose and Use of Proceeds

Public Law 96-302 authorizes SBA to guarantee loans to certain employee trusts to enable them to acquire an interest in the small business with which they are associated. Loan proceeds can also be used to enable a small business to finance its corporate growth by obtaining funds from its employee trust even though the trust does not acquire a majority interest in the business.

Eligibility

To qualify for this program, an applicant must be a qualified employee trust which is maintained by a small business concern or by an employee organization which represents at least 51 percent of the employees of such a business. Such trusts are established primarily to invest in certain securities of the business with which they are associated. These securities may be either equity instruments (stock, etc.) or debt instruments (bonds, debentures, notes, etc.). Each employee participant in the plan for which the trust was established must be entitled to direct the vote of his or her share of the securities of the business on corporate matters which must be decided by a majority vote of those securities.

The business with which the applicant employee trust is associated must be an eligible small business concern as described in SBA Rules and Regulations for general business loans, and also qualify as a small business under SBA employment or sales size standards. However, an employee trust may apply for assistance to purchase a business which, by reason of affiliation with another person or entity, is other than small if, after the purchase is accomplished, the business would be an eligible small business.

Requirements regarding availability of credit elsewhere, collateral, and repayment ability are generally the same as those for SBA's general business loan program. SBA can require that the property of a business be available for collateral for a loan to the employee trust with which it is associated. However, the agency will not require the use of personal assets or guarantees from individual plan participants/employee-owners.

Amount, Interest Rate and Term of Loan

This assistance is available only under SBA's guarantee program. SBA may guarantee up to $500,000 of a commercial loan to a qualified employee trust. If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness.

For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The interest rate is negotiated between the borrower and lender with the maximum set by SBA. The maximum interest rate for loans with maturities of 7 years or more is 2¾ percent above the prime rate. The maximum for loans with maturities of less than 7 years is 2¼ percent above the prime rate.

The maximum maturity of an SBA guaranteed loan to an employee trust is 25 years plus such time as is necessary to complete the acquisition of real estate or construction of facilities.

Special Considerations

The small business employer concern whose securities the employee trust invests in must agree that an employee organization owning less than 51 percent of the voting control will have a 90 day "right of first refusal" before the business is relocated, sold, liquidated or otherwise loses its identity as an independently owned and operated small business concern. The employer concern must also agree to place no maximum or minimum limits on the percentage of voting stock that the employee organization is allowed to purchase and control.

EXPORT FINANCIAL ASSISTANCE

Purpose and Use of Proceeds

Public Law 96–481 authorizes SBA to make or guarantee loans to small businesses to finance export assistance. SBA is also authorized to provide extensions and revolving lines of credit for export purposes to small business concerns to develop foreign markets and for pre-export financing. Proceeds of export assistance loans may be used to finance labor and materials for pre-export production, professional export marketing services, foreign business travel and participation in trade shows.

Eligibility

Requirements regarding the availability of credit elsewhere, collateral, and repayment ability are generally the same as those for SBA's general business loan program. Applicants for export financial assistance must, however, have been in operation for at least 12 months before filing an application.

Amount, Interest Rate and Term of Loan

Export financial assistance is available only under SBA's guarantee program. SBA may guarantee up to $500,000 of commercial financing for export purposes. If the loan is $100,000 or less the guarantee may not be less than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The interest rate is negotiated between the borrower and lender with the maximum set by SBA at 2¼ percent above the prime interest rate.

The maximum maturity for this type of assistance is 18 months.

Special Considerations

In addition to the 1 percent guarantee fee which most commercial lenders normally pass on to SBA borrowers, the lender may also charge export assistance borrowers a "commitment" fee of ¼ percent of the loan or $200, whichever is greater.

ECONOMIC OPPORTUNITY LOANS (EOL)

Purpose and Use of Proceeds

SBA may make or guarantee loans to small business concerns located in urban or rural areas with high proportions of unemployed or low-income indi-

viduals, or which are owned by low-income individuals. EOL loans may be made to established or new businesses. Loan proceeds may be used for the same general purposes as SBA's general business loans.

Eligibility

Applicants must demonstrate that income from all sources (other than welfare) is not sufficient to meet basic needs, or that due to social or economic disadvantage they have been denied the opportunity to acquire sufficient business financing through normal lending channels or on reasonable terms. Honorably discharged Vietnam veterans who are unable to obtain financing on reasonable terms either from usual commercial sources or other SBA financing programs may be eligible.

Applicants must demonstrate the ability to operate a business successfully. There must be reasonable assurance that the loan can be repaid from the earnings of the business.

While character is of more importance than collateral, each applicant is expected to pledge available collateral and have some money or other assets invested in the business.

Amount, Interest Rate and Term of Loan

SBA may guarantee up to $500,000 of a commercial EOL loan. If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The maximum interest rate on guaranteed loans is 2¾ percent above the prime interest rate on loans with maturities of 7 years or more and 2¼ percent above the prime for loans with maturities of less than 7 years.

Direct loans or SBA's share of immediate participation loans are usually limited to $150,000 although loans of $350,000 can be approved in SBA regional offices in exceptional cases. All direct loan approvals are subject to the availability of funds.

The interest rate on direct loans and SBA's share of immediate participation loans may not exceed a rate set by a statutory formula representing the average cost of government borrowing. As of January 1, 1983, this rate was set at 11⅝ percent. The maximum rate on the lending institution's share of an immediate participation loan is 1¾ percent above prime for loans with maturities of 7 years or more and 1¼ percent above prime for loans with maturities of less than 7 years.

SBA business loans may be made for up to 25 years plus such time as is necessary to complete the acquisition of real estate or the construction of any facilities financed by the loan. However, working capital loans are generally limited to 5–7 years.

HANDICAPPED ASSISTANCE LOANS (HAL)

Purpose and Use of Proceeds

Under this program, the Small Business Administration may make loans in two categories: loans to nonprofit organizations (HAL–1) and loans to small business concerns owned, or to be owned, by handicapped individuals (HAL–2).

HAL–1 financial assistance is available to public or private nonprofit sheltered workshops, or any similar organization which employs handicapped individuals for not less than 75 percent of the man-hours required, to enable them to produce and provide marketable goods and services. HAL–2 financial assistance is available for the establishment, acquisition, or operation of a small business concern 100 percent owned by handicapped persons.

Eligibility

In order to be eligible to apply for a HAL–1, the nonprofit organization must submit certification that it is organized under the laws of the State, or of the United States, as a nonprofit organization operating in the interests of handicapped individuals.

To qualify for a HAL–2 loan, an applicant must be an eligible small business concern as described in SBA Rules and Regulations, and also qualify as a small business under SBA employment or sales size standards. Applicant's personal and/or business assets are to be used to the greatest extent feasible without causing undue hardship. In the case of HAL–1 and HAL–2, private credit, if available on reasonable terms, must be used before obtaining SBA assistance. Although there are no statutory requirements with respect to collateral or security for such loans, an applicant must pledge whatever collateral or give such guarantees as it can. All HAL loans must be of such sound value or so secured as to reasonably assure repayment. Reasonable prospects of repayment must be indicated; however, the Small Business Act requires that any reasonable doubt be resolved in favor of the applicant.

Amount, Interest Rate and Term of Loan

SBA may guarantee up to $500,000 of a commercial HAL loan. If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The maximum interest rate on guaranteed loans is 2¾ percent above the prime interest rate on loans with maturities of 7 years or more and 2¼ percent above the prime for loans with maturities of less than 7 years.

Direct loans or SBA's share of immediate participation loans are usually limited to $150,000 although loans of $350,000 can be approved in SBA regional offices in exceptional cases. All direct loan approvals are subject to the availability of funds.

The interest rate on direct handicapped assistance loans or SBA portions of immediate participation HAL's is 3 percent. The maximum rate on the lending institution's share of an immediate participation loan is 1¾ percent above prime for loans with maturities of 7 years or more and 1¼ percent above prime for loans with maturities of less than 7 years.

SBA handicapped assistance loans may be made for up to 25 years plus such time as is necessary to complete the acquisition of real estate or the construction of any facilities financed by the loan. However, working capital loans are generally limited to 5–7 years.

SOLAR AND OTHER ENERGY CONSERVATION LOANS

Public Law 95–315 established a loan program to provide financial assistance to small business concerns involved in the design, manufacture, distribution, marketing, installation or servicing of solar energy or other energy conservation equipment.

Purpose and Use of Proceeds

SBA solar and energy conservation loans may be used to assist a small business concern in financing plant construction, conversion, expansion (including acquisition of land for such a plant), or start-up, and the acquisition of equipment, facilities, machinery, supplies or materials to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service eligible energy conservation measures. Loan proceeds may also be used for working capital.

Eligibility

Only those energy measures listed below are eligible for assistance under this program.

1. Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer, or of the passive type based on convective, conductive, or radiant energy transfer, or some combination of these types.

2. Photovoltaic cells and related equipment (for example, photovoltaic powered solar irrigation pumps).

3. A product or service, the primary purpose of which is conservation of energy through devices or techniques which can be demonstrated to increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy, or which the Administrator determines to be consistent with the intent of this program. In most cases the applicant must furnish written evidence satisfactory to SBA demonstrating projected or actual energy savings.

4. Equipment—the primary purpose of which is production of energy from wood, biological waste, grain or other biomass source of energy (for example, equipment used to convert wood or waste products into methanol-wood alcohol and equipment used to ferment ethanol-grain alcohol from agricultural products).

5. Equipment—the primary purpose of which is industrial cogeneration of energy (for example, using thermal energy to produce power and using the rejected heat in a thermal process), district heating (for example, using one boiler to heat several buildings), or production of energy from industrial waste (for example, burning waste products to produce energy).

6. Hydroelectric power equipment (for example, using water driven turbines to produce electricity).

7. Wind energy conversion equipment (for example, using windmills to produce electricity).

8. Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in items 1 through 7 above (for example, a firm which specializes in providing expert advice to others on increasing the energy efficiency of existing facilities).

An energy conservation loan will not be made unless the financial assistance sought is unavailable on reasonable terms from non-Federal sources. The loan must be of such sound value or so secured as reasonably to assure repayment; however, SBA is directed to recognize that greater risks may be associated with loans made to business concerns in this field.

If an applicant is unable to obtain financing on reasonable terms from a private lender and if an SBA guaranteed loan is unavailable, SBA will then consider advancing funds on an immediate participation basis. SBA will consider making a direct loan only when the above mentioned forms of financing are not obtainable, and funds are available for direct lending.

An applicant must be an eligible small business concern as described in SBA Rules and Regulations, and also meet employment or sales standards (size standards) developed by the Agency.

Amount, Interest Rates and Term of Loans

SBA may guarantee up to $500,000 of an energy conservation loan. If the loan is $100,000 or less the guarantee may not be less than 90 percent except for those portions of the loan used to refinance prior indebtedness. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000. The maximum guarantee percentage for loans or portions of loans refinancing prior indebtedness is 80 percent.

The maximum interest rate on guaranteed loans is 2¾ percent above the prime interest rate on loans with maturities of 7 years or more and 2¼ percent above the prime for loans with maturities of less than 7 years.

Direct loans or SBA's share of immediate participation loans are usually limited to $150,000 although loans of $350,000 can be approved by SBA regional offices in exceptional cases. All direct loan approvals are subject to the availability of funds.

The interest rate on direct loans and SBA's share of immediate participation loans may not exceed a rate set by a statutory formula representing the average cost of government borrowing. As of January 1, 1983, this rate was set at 11⅝ percent. The maximum rate on the lending institution's share of an immediate participation loan is 1¾ percent above prime for loans with maturities of 7 years or more and 1¼ percent above prime for loans with maturities of less than 7 years.

SBA energy conservation loans may be made for up to 25 years plus such time as is necessary to complete the acquisition of real estate or the construction of any facilities financed by the loan. However, working capital loans are generally limited to 5–7 years.

Special Considerations

This program requires SBA to report projected and actual energy savings, and number of jobs created by recipients. Applicants and borrowers will, therefore, be required to supply such information.

Generally, funds cannot be used for research and development, which should be completed before the loan application. Where, however, development of a product or service may be completed under a business plan that provides reasonable assurance of repayment, or where the further development of a product or service already on the market is involved, a portion of the loan proceeds not to exceed 30 percent may be used for such purposes.

VIETNAM AND DISABLED VETERANS' LOANS

Public Law 97–377 (approved December 21, 1982) established and funded a specialized SBA business loan program for Vietnam era and disabled veterans only. As of this printing, SBA has not drafted the regulations necessary to implement this program; however, qualified Vietnam and disabled veterans are, of course, eligible for all other agency programs as well as special consideration as provided for in Public Law 93–237. SBA has defined "special consideration" to include the following:

(1) In depth management assistance counseling on first interviews. Action will be taken to insure that management assistance personnel advise veterans of SBA's programs and the potential benefits to them.

(2) Emphasis to SBA personnel designated as Veterans Affairs Officers of the need for close cooperation with the local VA offices and organizations having direct interest in veterans' affairs.

(3) Direction of SBA procurement personnel designated as Veterans Procurement Affairs Advisers to emphasize how veterans can obtain procurement contracts from the Government.

(4) Local media campaigns to inform the veteran about SBA's ability and desire to help.

(5) Special workshops and training.

(6) Prompt processing of loan applications of any type.

(7) Particular attention to giving maximum loan maturity to veterans.

(8) Loans will not be declined solely because of the lack of collateral, providing the veteran, dependent, or survivor will provide any worthwhile collateral.

(9) On all direct loans, the placement of a liberal interpretation on present deferment policy.

(10) In the awarding of 8(a) contracts, veteran status may be a contributing factor in establishing eligibility as "socially or economically disadvantaged."

(11) In all district offices there shall be one or more loan specialists designated as veterans loans officers.

LOCAL DEVELOPMENT COMPANIES

Purposes and Use of Proceeds

This program works through a profit or nonprofit corporation formed by local citizens whose primary purpose is to improve their community's economy. They assist in the planned economic growth of the community by promoting and assisting the development of small business concerns in the area.

SBA is authorized to make loans to development companies for projects to help a development company acquire land and construct a new plant, purchase necessary machinery and equipment, or acquire, expand or convert an existing plant, for the benefit of specific identifiable small businesses. SBA may lend up to $500,000 for each business that is to be assisted.

The project can consist of multiple local development company loans, such as in Neighborhood Business Revitalization. However, SBA funds may be used only for developing spaces which will be occupied by identifiable eligible small businesses. Applications for SBA loans must clearly identify the spaces for whose development the SBA funds will be used.

Loan applications are accepted only after demonstration that the proceeds will be used for plant acquisition, construction, conversion, expansion, or for land acquisition, and that the facility will be for the benefit of an identifiable small business concern.

These loans may not be used for working capital or for debt repayment, except interim debt incurred for construction of the project involved.

Income received by the development company through its assistance to the small concerns must be no greater than necessary to repay the SBA/bank loans with interest; to pay taxes and maintenance charges; to recover administrative costs and provide a reasonable reserve for contingencies; and to recover the development company's own capital and expenditures with a reasonable return thereon.

Eligibility

The SBA may make loans to a local development company of either a profit or nonprofit type, provided the company has as its principal purpose the furtherance of economic development and provided the company is authorized to assist in the growth and development of small business.

SBA requires that the ownership of a local development company be held by at least 25 individuals of whom 75 percent reside or do business in the specified area of operations, since the organization should be a community undertaking. No more than 25 percent of the control of the development company may be held by (1) a single individual or affiliates if he or she and the affiliates have a financial interest in the project to be developed (as for example, the contractor who will construct the buildings) or (2) by the holder of any interest in the small businesses being assisted.

The small business to be aided must be an identifiable concern and the loan must be for a sound business purpose. The small business to be assisted generally must meet the criteria for SBA assistance established in SBA's Rules and Regulations.

A local development company loan may not be made by SBA if the funds the development company requests are available from banks or other private lenders. In applying for a loan, the development company must produce certified evidence that the requested funds are not available from such sources.

To the extent that other sources such as banks do have funds available, they may, and frequently do, participate with SBA in helping development companies finance projects.

A development company itself generally is required to provide from non-Federal sources at least 10 percent of the cost of a project, and in any event not less than the amount by which the project cost exceeds the appraised market value. The development company should be prepared to use these funds before using any proceeds of the SBA loan.

All local development company loans must be so secured as reasonably to assure repayment. The SBA must be satisfied that all property and rights available as security for a loan are of such a nature and value as reasonably to secure the loan.

Amount, Interest Rate and Term of Loan

SBA may guarantee up to $500,000 of a commercial development company loan. If the loan is $100,000 or less, the guarantee may not be less than 90 percent. For loans exceeding $100,000, the guarantee may not be more than 90 percent nor less than 70 percent unless a guarantee of less than 70 percent would be necessary to ensure that the guaranteed portion of the loan would not exceed $500,000.

The maximum interest rate on guaranteed loans is 2¾ percent above the prime interest rate on loans with maturities of 7 years or more and 2¼ percent above the prime for loans with maturities of less than 7 years.

SBA development company loans may be made for up to 25 years plus such time as is necessary to complete the acquisition of real estate or the construction of any facilities financed by the loan.

DEVELOPMENT COMPANY DEBENTURES

Purpose and Use of Proceeds

Public Law 96–302 authorizes SBA to guarantee 100 percent of all principal and interest as scheduled on any debenture issued by a qualified State or local development company. The proceeds of these debenture sales are used to assist small businesses in financing plant acquisition, construction, conversion, or expansion, including the acquisition of land. Proceeds may not be used for working capital purposes.

Income received by the development company through its assistance to small businesses cannot exceed that necessary to repay with interest the debentures it issues, to pay taxes and insurance, and to recover administrative costs.

Eligibility

To qualify for this program, a development company must have:

(1) A full-time professional staff with capability to package, process, close, and service its loans;

(2) Professional management ability, including adequate accounting, legal and business-servicing abilities. Business-servicing ability means the ability to provide management advice and services to small business concerns. Such capabilities may be drawn from the staff, the board or membership of the development company or acquired on a contractual basis, from qualified individuals or organizations who reside or do business in the development company's defined area of operation, subject to SBA approval; and

(3) A board of directors, or membership, which meets on a regular basis to make management decisions for the company including decisions relating to the making and servicing of loans by such company. It must have at least five directors who meet at least once in every other month and must be representative of the region or community served.

The development company must have at least 25 members or stockholders. A local development company must have a defined area of operation less than statewide. A State development company is a corporation organized under or pursuant to a special legislative act to operate on a statewide basis. The capital for a statewide development company must be derived from corporate holders or corporate members, each of whom may not have more than 10 percent of the voting control of the State development company.

A development company will ordinarily be required to inject into the project to be financed an amount equal to 10 percent of the funds necessary to complete a given project. The 10-percent injection may come from any source, including the project concern.

Amount, Interest Rate and Terms of Financing

Development company debentures are issued for the purpose of assisting identifiable small businesses, and SBA must approve each loan to be made from debenture proceeds. The maximum allowable loan amount outstanding to any small business from the proceeds of development company debentures is $500,000. The maximum amount of any loan is further limited to 50 percent of the total cost of the project for which the loan proceeds are intended.

A development company that has demonstrated management ability, adequate financial capacity, and has shown an active use of this program may, with SBA Central Office prior approval, be allowed to have multiple loans from each debenture.

The amount of a development company debenture cannot exceed the amount of the loan or loans to be made from the proceeds of its sale and associated administrative costs.

The maximum maturity of a development company debenture is 25 years. The interest rate on such a debenture is that charged by the Federal Financing Bank (FFB) to which the company sells its SBA-guaranteed debentures. This rate fluctuates and is based on the current average market yield on outstanding marketable U.S. obligations with comparable maturities. As of January 1, 1983, this rate was 10.385 percent for 15-year debentures, 10.509 percent for 20-year debentures, and 10.576 percent for 25-year debentures.

The interest rate on development company loans is usually one-half percent above that of the debenture which finances them, although the rate can be set up to 2 percent above the debenture rate when specially justified and approved by SBA.

The development company may also charge a one-time processing fee of up to one-half percent payable at loan closing.

POLLUTION CONTROL GUARANTEES THROUGH FEDERAL TAX-EXEMPT BOND FINANCING

Purposes and Use of Proceeds

The Small Business Administration, in cooperation with commercial banks and State agencies, helps small businesses obtain long term (up to 30 years) and low interest rate financing for required pollution control facilities. SBA is authorized to issue an unqualified guarantee of 100 percent of the payments of rentals or other amounts due under qualified contracts with respect to the planning, design, financing, or installation of pollution control facilities.

Small businesses, because of their generally limited credit history and the smaller size of their financing requirements, are often unable to obtain long term, low interest rate financing through revenue bonds. The high costs and nonproductive nature of required pollution control facilities are often more than small businesses can be expected to handle. SBA, commercial banks and State authorities make long-term, low interest financing available to well established larger small businesses in much the same manner the corporate giants obtain financing for pollution facilities: through sale of tax-exempt, pollution control revenue bonds issued by a State or municipal authority. This is made possible through SBA's guarantee of the small concern's obligation.

Pollution control financing for several small businesses located in the same State would be combined into a single tax-exempt bond issue. SBA would then provide a guarantee of the payments of each small business on the underlying contracts. In those cases where revenue bond financing is uneconomic (i.e., for small amounts) or when the project may not qualify for tax exemption, financing may be available under other SBA programs.

Eligibility

Any small business which is or is likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities or the obtaining of financing for such facilities would be eligible.

The applicant must be able to demonstrate:

That it is a small business under SBA employment or sales size standards,

That it has a pollution problem or is in the business of pollution abatement (including solid and liquid waste removal concerns),

That it is at an operational or financing disadvantage with other businesses,

That it has been in business at least 5 years and has a history of profitable operations in any 3 of the last 5 years, or the equivalent of such a history, and

That the facility to be financed will help prevent, reduce, abate, or control pollution or contamination.

The SBA, the State authority which issues the bonds, and the small business concerns are assisted by commercial banks or other institutions which act as "sponsors" of small businesses' application for assistance. The sponsor helps the small business concern (usually the sponsor's customer) prepare an application for a guarantee and makes a recommendation to the SBA as to the small business' creditworthiness.

Amount and Program Cost

The aggregate amount to be financed may not exceed $5 million.

SBA's guarantee is for the full term of the contract and is backed by the full faith and credit of the United States. The guarantee fee is 3½ percent of the aggregate amount guaranteed and is payable to SBA upon issuance of its guarantee. Additionally, an application and processing fee is charged.

SMALL BUSINESS INVESTMENT COMPANIES (SBIC'S)

The SBA helps finance small firms through privately owned small business investment companies. SBIC's are SBA-licensed companies which supply equity capital and long-term loan financing to small firms for expansion, modernization, and sound financing of their operations. They may also provide management assistance. SBIC's must operate within SBA regulations but their transactions with small companies are private arrangements and have no connection with SBA.

SBIC's invest in practically all types of manufacturing and service industries, and in a wide variety of other types of businesses, including construction, retailing, and wholesaling. Many seek out small businesses offering new products or services because they believe these firms have unusual growth potential.

An SBIC finances small firms in two general ways—by straight loans and by venture capital or equity-type investments. In some cases, these investments give the SBIC actual or potential ownership of a minority of a small business' stock. However, SBIC's are generally prohibited from taking a control position in a small concern. Generally, financings may not exceed 20 years and must be for at least 5 years, except that a borrower may elect to have a prepayment clause included in the financing agreement.

Equity-Type Investments

A major incentive for SBIC's to risk their capital in small businesses is the chance to share in the profits if the businesses grow and prosper. Three types of investments are commonly used by the SBIC's to give them an opportunity to participate in this growth:

Loans with Warrants.—In return for a loan, the small business issues warrants enabling the SBIC to purchase common stock in the company, usually at a favorable price, during a specified period of time.

Convertible Debentures.—The SBIC lends the small business money and in return receives a convertible debenture. The SBIC then can either accept repayment of the loan or can convert the debenture into an equivalent amount of common stock of the small business.

Stock.—The SBIC purchases common or preferred stock from the small business.

Straight Loans

While most SBIC's want an opportunity to share in the growth and potential profits of the small companies they finance, some will make loans which involve no equity features. The small business which obtains a straight loan usually will be required to provide security. This security may take the form of a second mortgage, a personal guarantee or some other type of collateral which may not be acceptable to banks or other conventional lending institutions.

The interest rate on a loan is determined by negotiation between the SBIC and the small business, but is subject to a regulatory maximum which fluctuates with the rate charged by the Federal Financing Bank (FFB) to which SBIC's sell their SBA-guaranteed debentures. This maximum is 7 percent above FFB's periodically published "cost of money" rate, rounded to the next lower one-eighth of 1 percent. Effective February 1, 1983, the FFB rate was 10.405 percent. Accordingly, the maximum allowable rate on an SBIC loan at that time would be 17⅜ percent. The maximum allowable rate may also be subject to State limits. Collateral requirements, terms of repayment, and other parts of the loan agreement also are determined by negotiation, within the boundaries of the regulations.

An SBIC may invest up to 20 percent of its private paid-in capital in a single business. For the smallest SBIC, the maximum loan or investment is $30,000; for the largest, it is several million dollars. In any event, several SBIC's may participate in financing the same small business and thereby increase the maximum investment.

An SBIC often will invest a negotiated amount in a small business and agree to advance additional funds after a specified period of time or after the small company has achieved prestated goals.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES

Minority Enterprise Small Business Investment Companies (MESBIC's) are SBIC's which specialize in providing equity funds, long-term loans, and management assistance to small business concerns owned by socially or economically disadvantaged persons. MESBIC's are governed by the same regulations, with some modifications, providing a program that is specially responsive to the needs of the disadvantaged business community.

The MESBIC agrees to make investment solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

On loans to small concerns, the maximum rate of interest a MESBIC may charge fluctuates with the FFB "cost of money" rate in the same way as the maximum allowable rate for SBIC loans. There are regulatory restrictions concerning the qualifications of businesses which a MESBIC may finance.

CHAPTER 3

SMALL BUSINESS ADMINISTRATION DISASTER LOAN ASSISTANCE

The Small Business Administration, in addition to the financial assistance programs outlined in the preceding chapter, also makes loans to assist in recovery from the effects of natural disasters declared by the President, the SBA Administrator, or the Secretary of Agriculture. SBA can also, in certain instances where no such declaration has been made, provide disaster assistance upon certification of need by the governor of the affected state.

After disaster strikes, SBA disaster loans provide for the quick restoration of jobs, services, business revenues, and taxes, promoting the long-term recovery and health of the community as well as offering assistance to affected individuals.

SBA disaster loans are of two main types: physical disaster loans and economic injury disaster loans.

PHYSICAL DISASTER LOANS

Purpose and Use of Proceeds

SBA's physical disaster loans may be used to restore a victim's primary residence (including a mobile home used as the applicant's primary residence) or business property, as nearly as possible, to predisaster condition. This includes furniture and other eligible household effects or personal property in a residence, and inventory, furniture, fixtures, machinery, equipment, leasehold improvements used in a business, and crops and livestock of eligible agricultural producers. Disaster loan funds may not currently be used to repair or replace secondary homes, their contents, or personal property used primarily for recreation or relaxation.

Eligibility

Home or property owners, residential tenants, businesses of any size, religious, charitable, or nonprofit organizations are eligible for SBA disaster loan assistance to repair or replace physically damaged or destroyed property. Also eligible are agricultural producers ineligible or unable to obtain disaster assistance from the Farmers Home Administration (FmHA) on terms substantially similar to those available to non-farm businesses at SBA.

Only those persons who suffered the loss, those who owned damaged or destroyed property at the time of the disaster, are eligible for financial assistance. In determining ownership, SBA considers beneficial as well as legal title, assumption of loss provisions, changes in ownership, and other pertinent factors. The loans may be made without regard to other resources; however, a "credit elsewhere" test is used to determine the interest rate on both disaster home loans and disaster business loans resulting from disasters which began an or after August 13, 1981. Borrowers able to obtain alternative financing without undue hardship pay a higher rate.

Amount, Interest Rate and Term of Loan

Most of SBA's physical disaster loans are direct loans without bank participation. An SBA disaster loan may not exceed the actual loss suffered by the disaster victim (after deducting any recovery from insurance, the Red Cross, a State grant, permanent mini-repairs, or other sources) plus eligible refinancing, expenses for code compliance, or eligible relocation expenses. The

statutory limit for physical disaster assistance (except for major sources of employment) is $500,000 per disaster. SBA has also established administrative limits for home and personal property loans.

1. *Home loans.*—A disaster home loan is limited to a maximum of $50,000 to restore a residence, $10,000 to restore residential contents, or $55,000 for both purposes, plus $50,000 for eligible refinancing. The cost of code compliance and eligible relocation expenses are included within these dollar limits.

The interest rate on disaster home loans resulting from disasters beginning on or after August 13, 1981, is determined by the applicant's ability to obtain alternative financing:

(a) For those homeowners (or tenants) unable to obtain credit elsewhere at reasonable rates, the rate may not exceed 8 percent or one-half of a formula rate representing the government's cost of borrowing plus up to 1 percent, whichever is lower. As of January 1, 1983, this rate was 5⅞ percent.

(b) For those homeowners (or tenants) able to secure alternative financing, the rate may not exceed the full "cost of money" formula rate plus up to 1 percent. As of January 1, 1983, this rate was 11⅝ percent.

2. *Business loans.*—A disaster loan to a business is limited to a maximum of $500,000 for real and personal property losses. Refinancing, code compliance, relocation expenses, and all other eligible loan purposes are included in this dollar limitation. An exception to this limit can be made for major sources of employment.

Those portions of disaster business loans used to repair or replace property damaged by disasters occuring on or after August 13, 1981, are limited to 85 percent of verified losses.

The interest rate on disaster business loans resulting from disasters beginning on or after August 13, 1981, is determined by the applicant's ability to obtain alternative financing:

(a) For those businesses unable to obtain credit elsewhere, the interest rate may not exceed 8 percent, the current level.

(b) For those businesses able to obtain credit elsewhere, the interest rate is the prime interest rate in effect on the day on which the disaster commenced.

3. *Other loans.*—The interest rate on loans to all other applicants may not exceed a rate set by a statutory formula relating to the average interest rate on all Government obligations. As of October 1, 1982, this rate was set at 11⅜ percent.

SBA may limit any disaster loan to an amount that the applicant can repay. The maturity of SBA disaster loans may not exceed 30 years. However, SBA may require that the loan be repaid in a shorter time, based upon an applicant's ability to repay. Normally, payments must be made in equal monthly installments of principal and interest; the first payment is due within 5 months of disbursement. Other repayment terms can be arranged in special circumstances.

The maturities of loans to businesses able to secure alternative financing are usually limited to three years.

Special Considerations Regarding Disaster Loans

1. Although physical disaster loans must be repaid, there is no specific requirement as to the amount of collateral, if any, that must secure a disaster loan. However, SBA will require that any available collateral be pledged to secure these loans. A disaster loan cannot be denied because no collateral is available or because available collateral is not adequate to secure the loan.

2. SBA disaster loan funds may not be used to replace extraordinarily expensive or irreplaceable items such as antiques, coin and stamp collections, rare paintings, book collections, extensive wardrobes, etc.

3. All SBA disaster loans to restore or replace real or personal property which is, or will be, located within a special flood hazard area must be covered by Federal Flood Insurance before any loan funds can be disbursed.

4. SBA does not consider the age of a disaster victim in determining whether a disaster loan may be made.

5. When a disaster causes damage of 30 percent or more of the predisaster fair market value of real property, prior recorded mortgages secured by the damaged property may be eligible for refinancing to avoid undue hardship. However, the amount of refinancing may not exceed the amount of physical loss sustained.

6. Whenever a disaster victim cannot get a building permit, or is unable to restore his or her property at the disaster site for other reasons, the cost of relocation may be eligible.

7. SBA disaster loans can be used only to restore property to its "predisaster" condition. Therefore, upgrading (for example, building a larger building) would be an ineligible use of disaster loan proceeds. Structural or other changes which are necessary to comply with building construction codes are not considered to be upgrading.

ECONOMIC INJURY (NONPHYSICAL) DISASTER LOANS

Purpose and Use of Proceeds

In areas hit by major or natural disasters, determined by the President, the Secretary of Agriculture, or the Administrator of SBA, small firms suffering substantial economic injury, i.e., economic loss, are eligible for SBA loans. In the event that a natural disaster was not of sufficient severity to result in one of these three disaster declarations, SBA may still provide disaster loan assistance upon the direct request of the Governor of the State involved.

Loan funds may be used to provide working capital and to meet short-term financial obligations that the borrower would have been able to meet if not for the disaster.

Eligibility

Unlike physical disaster loans which are available without consideration of the nature or size of the applicant, only for-profit small business concerns are eligible for economic injury loan assistance. Also, in the case of economic injury disaster loans, SBA requires personal and/or business assets to be used by the applicant to the greatest extent feasible, without undue hardship, to alleviate the injury incurred. In addition, SBA requires private credit, to the extent obtainable on reasonable rates and terms, to be used prior to obtaining disaster loan assistance from that agency.

Amount, Interest Rate and Term of Loan

The maximum amount of an economic injury loan (or the combination of a physical and an economic injury loan) is $500,000 for any one disaster, unless the applicant is a major source of employment as defined in SBA's rules and regulations. The loans may be made for up to 30 years.

The interest rate on direct economic injury loans may not exceed 8 percent.

CHAPTER 4

OTHER SMALL BUSINESS ADMINISTRATION ASSISTANCE

SURETY BOND GUARANTEES PROGRAM

Small business contractors and subcontractors who seek public (and some private) construction jobs are often required to furnish surety bonds. SBA can assist such contractors by extending a guarantee to a surety of up to 90 percent against loss in order to make bonding more easily obtainable. Bid bonds as well as payment and/or performance bonds may be guaranteed on contracts of up to $1,000,000. SBA may also pay a surety up to 10 percent of the value of the contract in order to prevent a breach of that contract when such a breach is imminent.

The surety company pays SBA a guarantee fee of 20 percent of its bond premium. The small business contractor or subcontractor pays SBA a guarantee fee of 0.5 percent of the contract price upon obtaining it.

All general, special trade (such as electrical, plumbing, heating, etc.) and service contractors whose gross annual receipts do not exceed $3,500,000 are eligible.

Surety companies eligible to receive SBA's guarantee must be included on the U.S. Treasury Department's list of qualified sureties.

PROCUREMENT AND TECHNICAL ASSISTANCE

The purpose of the Small Business Administration's Procurement and Technical Assistance Programs is to make certain that small business obtains its fair share of Government purchases and contracts or subcontracts.

The Prime Contracts Program

SBA has procurement center representatives stationed at all Federal installations, both military and civilian, which have major buying programs, and some assigned on a liaison basis to installations with smaller, but still significant, buying programs.

Such installations submit all requirements, which are over $2,500 and are not to be processed as restricted to small business only, to SBA's procurement center representative for his independent review.

If at all possible, procurement center representatives will recommend that such requirements (including those for architectural and engineering services, research, development, testing and evaluation) be processed as small business set-asides. This means that the procurement would be restricted to small business firms only, and large business firms would not be permitted to submit bids or proposals on the procurement.

Certain criteria must be satisfied before a small business set-aside is authorized. There must be a reasonable expectation that there will be sufficient competition among small businesses which could normally be expected to be able to provide the goods or services required so that awards can be made at fair and reasonable prices. Generally, all contracts for the procurement of goods and services of less than $10,000 and subject to small purchase procedures are reserved for small business.

If the procurement center representative's screening indicates that the set-aside criteria cannot be satisfied, then the representative will attempt to provide small business sources and encourage the widest possible small business participation in the procurement. The procurement regulations require the buying activity to send copies of the solicitations to these SBA added sources.

When the procurement center representative recommends that a requirement be procured under a small business set-aside, and that recommendation is rejected by the contracting officer, or when the recommendation of the small business specialist of the installation for a set-aside is rejected by the contracting officer, the SBA has the right to appeal this rejection to the Secretary of the Department or head of the agency involved.

The procurement center representative also looks for provisions or procedures which may inhibit, restrict, or discourage small business firms from submitting offers. When any of these are identified, the representative will do all he or she can to get the provision modified or relaxed so as to give small business a better chance to participate and win the contract award.

In addition to the procurement center representatives, all SBA offices provide information, guidance, and counseling to small businesses on procurement matters.

SBA's computerized Procurement Automated Source System (PASS) lists the names of small companies and their capabilities and is available to assist Federal procurement officers and procurement officials of private contractors find small companies to do Federal work. Small businesses interested in adding their name to PASS can get the required registration form at any of the more than 100 SBA offices located throughout the country. PASS computer terminals are located in SBA's ten regional offices and in the offices of Federal procurement officials and private prime contractors. SBA anticipates having 200 PASS terminals on line by the end of 1983. Since PASS's inception in 1978, more than 71,000 small companies have been placed on the system.

The Subcontracting Program

Congress has established a subcontracting program to (1) enable small business concerns and small business concerns owned by the disadvantaged to be considered fairly as subcontractors and suppliers to contractors performing work as prime contractors under Government contracts; (2) insure that such prime and subcontractors will cooperate with the appropriate procurement agency and with SBA; and (3) enable SBA to obtain from any Government agency information concerning subcontracting by its prime contractors and their subcontractors.

Contracts which exceed $10,000 must contain a "best efforts" clause, requiring the prime contractor to accomplish the maximum practicable amount of subcontracting to small and small disadvantaged businesses. In most procurements over $500,000 ($1,000,000 for construction), large contractors are required to formulate a detailed subcontracting plan, to be included in the prime contract, which requires certain specified activities the prime contractor must undertake to insure that small and disadvantaged firms receive the maximum opportunity to participate in the performance of the contract. SBA reviews contractor performance under these plans.

The Certificate of Competency (COC) Program

If a contracting officer proposes to reject an offer of a small business firm which is the apparently successful offeror because the officer questions the firm's responsibility to perform the contract, the case is referred to SBA.

On receipt of a Certificate of Competency application, the contracting officer of the procuring agency is notified that the potential contractor has applied, and a team of SBA financial and technical personnel is sent to the firm to survey its potential. Credit ratings, past performance, management capabilities, management schedules, production and technical capabilities and the prospects for obtaining needed financial help or equipment are all considered.

If the financial position of the firm is weak, if critical equipment is absent, or if the management effort is inadequate, the regular assistance programs of SBA (loans, management counseling, assistance in locating equipment, etc.) may be applied to strengthen capability. If it appears that the firm has the

credit and productive capacity required to fulfill the contract, with or without SBA assistance, the team's findings will be presented to a COC Review Committee in the appropriate regional office.

If the decision here is negative, the Certificate of Competency is denied, and both the firm and the procuring activity are notified. If the decision here is affirmative and the procurement is less than $250,000, the Regional Administrator issues the certificate. For procurements in excess of that amount, the recommendation and supporting data are forwarded to the Central Office Review Committee. If affirmative, a letter certifying responsibilities of the firm to perform the subject-contract (the Certificate of Competency) is sent to the procuring activity. By terms of the Small Business Act, the Certificate of Competency is conclusive and the contract must be awarded to the small firm.

A Certificate of Competency is valid only for the specific contract for which it is issued. A business concern which is capable of handling one contract may not be qualified to handle another.

Certification of Eligibility Under the Walsh-Healey Act

In addition to satisfying questions of responsibility to perform the contract, an offering company on a Government contract must also show that it is "eligible" to receive a contract award. One element of eligibility is the requirement that all potential contractors must meet the criteria found in the Walsh-Healy Public Contracts Act, 41 U.S.C. 35, et seq.

That Act requires that in all Government contracts in excess of $10,000 there must be a stipulation that "the contractor is the manufacturer of, or a regular dealer in, the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract." Rules and regulations of the Department of Labor require that a procurement officer must reject bids from a bidder who is not a "manufacturer or dealer" within the meaning of the statute. If the procurement officer believes that an otherwise qualified concern is in violation of the Walsh-Healey Act, this finding must be referred to SBA which is given the authority to either dismiss the finding and direct the officer to award the contract, or if it concurs, submit the finding to the Department of Labor for final disposition. It does not, however, in any way change the requirements of this Act; it merely provides for their uniform application in all areas of the United States.

The SBA is to administer and enforce the rules and regulations promulgated by the Department of Labor that pertain to the Walsh-Healey Public Contracts Act when certifying as to whether a small business concern meets the provisions of section 35(a) of title 41, United States Code.

The Property Sales Program

The Federal Government sells large quantities of many kinds of real and personal property which is surplus to Federal needs, and resources which are authorized for sale in accordance with public law. SBA cooperates with other Federal agencies to channel a fair share of this property and these resources to small business.

SBA's property sales assistance to small business includes providing counsel to small business on matters pertaining to Government property sales and helping small business obtain a fair share of Government property sales.

Five categories of Federal property are covered by the program:

1. Timber and related forest products. SBA, U.S. Forest Service and Bureau of Land Management work together in insuring opportunities for small business concerns to bid on Federal timber sales. In addition, SBA and the sales agencies jointly set aside timber sales for bidding by small concerns when it appears that under open sales, small business would not obtain its fair share.

Local district offices of the Forest Service also offer smaller timber sales. These sales are normally purchased by small business and are not usually reviewed for set-aside.

2. Strategic materials from the national stockpile.

3. Royalty oil. Royalties due the Government under lease of Federal oil rights for the exploration of oil may be accepted by the Secretary of the Interior in the form of oil or money. If he or she elects to accept oil in lieu of money, the oil is identified as "royalty oil."

Further, when the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to small business refineries, he or she is directed to grant preference to these refineries for processing or use in such refineries, and not for resale in kind.

4. Leases involving rights to minerals, oil and vegetation. SBA and the sales agency may jointly set aside a reasonable number of leases for bidding by small concerns when it appears that under open bidding small business would not obtain its fair share.

5. Surplus real and personal property. The Federal Government disposes of property for which it has no foreseeable need. Such property is first made available for donation to recipients authorized by law, such as educational and public health facilities, State and local governments, etc. The remainder is sold.

SBA helps small business to locate and obtain its fair share of Federal surplus property.

The Technology Assistance Program

The SBA Technology Assistance Program consists of three sub-programs: Technology Assistance, Research and Development Assistance, and the Experimental Technology Incentive Program aimed at improving the ability of small high-technology firms to compete more effectively for Federal Government contracts. Each SBA Regional Office publishes a directory listing small firms in research and development and high technology which would be able to fulfill Government contracts of this type.

1. *Technology Assistance.*—SBA has the responsibility to assist small business concerns in obtaining the benefits of research and development performed by other Federal agencies under Government contracts or at Government expense.

2. *Research and Development Assistance.*—SBA has the responsibility to assist small business concerns in obtaining Government contracts for research and development. In addition to the services available through the Prime Contracts Program, this element of the Technology Assistance Program provides small research and development and technology-oriented firms with a means of obtaining information on contract opportunities. Under the terms of the Small Business Innovation Development Act of 1982 (Public Law 97-219), SBA also has the responsibility to issue policy directives for the Small Business Innovation Research (SBIR) programs of various Federal agencies. Under the SBIR programs research and development contracts are reserved exclusively for small business.

3. *Experimental projects.*—Aimed at improving the ability of small high-technology firms to compete more effectively for Federal Government contracts.

Labor Surplus Area Set-Aside Contracts

Public Law 95-89, August 4, 1977, established a priority for awarding contracts and placing subcontracts to concerns which perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. The law also authorizes total labor surplus area set-asides if it is specifically determined that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices.

As redirected by Public Law 96-302, in carrying out labor surplus area and small business set-aside programs, departments, agencies, and instrumentalities

of the executive branch are to award contracts, and encourage the placement of subcontracts for procurement to the following in the order stated:

(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of total set-aside;

(2) concerns which are small business concerns on the basis of a total set-aside;

(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

(4) concerns which are small business concerns, on the basis of a partial set-aside; and

(5) businesses which are not small business concerns and which will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.

MINORITY SMALL BUSINESS PROGRAMS

The Small Business Administration's Minority Small Business and Capital Ownership Development Program coordinates the Agency's combined efforts to make more business opportunities available to minority individuals. This program brings together all SBA's services and those of private industry, banks, local communities and other Government agencies to substantially increase the number of and opportunities for minority owned businesses. Potential or established minority business owners can apply for assistance under the programs offered.

Types of Assistance Offered

Community Development.—Local groups interested in stimulating the planned economic growth of their community by aiding other small businesses in their area are given help in forming local development companies. This program is discussed under the section on development companies.

The 8(a) Program.—SBA acting as prime contractor subcontracts to small firms owned and controlled by economically and socially disadvantaged individuals which are interested in obtaining Government contracts. In addition, management and technical help is included in this service. The 8(a) program assists in the expansion and development of existing, newly organized, or prospective profit-oriented small business concerns owned and controlled by eligible disadvantaged persons.

Through this program those eligible firms are assisted in developing the capability to compete effectively in the nation's marketplace.

Section 8(a) of the Small Business Act authorizes SBA to enter into contracts with the United States Government and any Federal department, or agency for their procurement needs. This authority, together with other financial, technical and management resources at its disposal, allows SBA to contract to supply their goods, services, and construction needs, by subcontracting for the actual performance of the work to 8(a) companies. The firms that are awarded 8(a) contracts must receive management and technical help in the planning and operating stages of the business, and must participate in a "Capital Ownership Program" as a condition of receiving 8(a) contracts.

Small business concerns owned and controlled by one or more persons who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social and economic disadvantage may apply. This category may include, but is not limited to, Black Americans, American Indians, Hispanic Americans, Eskimos, Aleuts, Asian-Pacific Americans, and Asian-Indian Americans.

Among the basic eligibility requirements for participation in the 8(a) program are: the principals of the firms being developed must be persons of good character; they are expected to be engaged full-time in day-to-day business operations and management; there can be no absentee ownership. Further, the

principals of applicant concerns must represent only one company and must not have had their eligibility previously approved by SBA for another 8(a) concern. Small business concerns must submit a business plan with specific targets, objectives, and goals aimed at correcting the economic impairment which, in part, qualified the firm for the 8(a) program, and containing a graduation date from the program. All eligible persons must be primary recipients of the program's benefits and objectives. Most importantly, the firms or businesses involved in the program must be operated for profit.

Financial Assistance.—SBA can make direct business loans to minority borrowers when funds are available. Minority small business loans can be made under any of SBA's business loan programs; however, a specific amount of direct loan funding and loan guarantee authority is reserved only for businesses located in areas of high unemployment or businesses owned by low-income individuals. More than three-fourths of these "economic opportunity" loans go to minority businesses.

Management Assistance.—In addition to SBA's own management assistance specialists, the agency can contract for private sector business consultants to counsel businesses owned by economically and socially disadvantaged individuals or businesses located in areas of high unemployment.

Long Term and Equity Capital.—Specialized investment companies may provide equity funds, long-term loans and management assistance to small firms owned by socially or economically disadvantaged persons. This program is discussed in the section on small business investment companies (SBIC's).

Bonding Assistance to Construction Firms.—Minorities can benefit from surety bond guarantees up to $1,000,000 on construction contracts. Contract financing may be available to any small firm with an assignable contract. The surety bond guarantee program is discussed in its section.

MANAGEMENT ASSISTANCE

SBA's Management Assistance program supports SBA loan recipients and other small business owners/managers through individual counseling, management training and publication of guidance materials. These programs are keyed to furthering the establishment, growth and success of small businesses. It is estimated that managerial deficiencies cause nine out of ten business failures.

SBA identifies management problems, develops solutions and helps implement and expand business plans through the management assistance officers who implement the Agency's counseling program. In addition to these professionals, SBA relies heavily on national volunteer organizations such as SCORE (Service Corps of Retired Executives) and ACE (Active Corps of Executives) to expand its capability for individual counseling.

Counseling on problems of marketing, accounting, product analysis, production methods, research and development is given in SBA field offices. Advice and training are also offered at no charge to prospective small business owners in the areas of their specific kinds of business enterprises.

Call Contracts Program

SBA places contracts with professional consulting firms providing management and technical aid to certain clients: those who require technical or other assistance not available otherwise, and who meet the eligibility requirements of Sections 7(i) (economic opportunity loans) and 8(a) (procurement assistance for the disadvantaged) of the Small Business Act. The program also allows SBA to initiate, organize and maintain this management counseling service for small firms as required.

In general, eligible recipients of the counseling services include "socially and economically disadvantaged individuals or firms" and "individuals or firms located in areas of high unemployment."

The consulting firm provides advice and counsel in establishing a proper recordkeeping system and any other management function such as production,

engineering, et cetera; legal services and specialized management training. There is no charge to the small business recipient for these services.

Participating Call Contract consulting firms who can perform these needed services must be established small firms at the time of proposal and must meet the standards set out in the Request for Proposals. Potential consultants must have been in business for at least 1 year before the closing date for receipt of proposals, and have a permanent staff capacity to perform at least 50 percent of the work.

SCORE/ACE Program

SCORE is an organization of 8,800 retired business executives—men and women of varied business and professional backgrounds—who volunteer their services to help small business owners solve their problems. Assigned SCORE counselors visit a business and analyze its problems. On a complex problem, other volunteer experts may be asked to assist. Finally, in consultation with the owner, a solution is formulated and the owner is helped through the critical period, all at no cost.

ACE (Active Corps of Executives) augments SCORE's services and keeps management counseling on a continually updated basis. Its more than 2,600 members are active executives from all major industries, professional and trade associations, educational institutions, and many of the professions. They volunteer their specialized kinds of expertise, not found in every SCORE chapter, whenever they are needed.

Management Training and Management Publications

To reach the greatest possible number in the small business community, SBA cosponsors management training with universities, colleges, distributive education units, trade and professional associations, chambers of commerce, and local business organizations. In some communities management training is also offered over commercial and educational TV stations.

To meet local small business needs, SBA's management training program encompasses four types of training for present and prospective small business owners: courses, conferences, problem clinics, and prebusiness workshops.

To help small business owners and managers keep abreast of modern management techniques and maintain efficient management policies, SBA issues hundreds of management, technical, and marketing publications on subjects of interest to cross sections of management, and presents facts and figures in brief, readable, nontechnical form. Professionals in many business areas as well as members of the academic community contribute their work as a public service to the needs of small firms.

International Trade Assistance

A significant growth potential for the small business community (primarily the manufacturing segment) exists through international trade. By successfully marketing its products overseas, the well-managed and financially sound small business can achieve added profit and increased utilization of existing production capacity. Through programs of specialized international trade counseling, training and publications, the SBA is seeking to inform small businesses of trade opportunities and procedures involved in selling abroad. The Agency is working with Federal and State agencies and the private sector to develop an integrated program of international trade assistance which meets the needs of small business.

Public Law 96–481 established within SBA an Office of International Trade to coordinate the agency's efforts in this area. The Act further provides for a full-time export development specialist in each of SBA's 10 regional offices.

SBA/PRIVATE SECTOR MANAGEMENT ASSISTANCE PROGRAMS

The Small Business Institute (SBI)

With the cooperation of faculty members and students of 382 of the nation's leading schools of business, the SBI Program provides long-term

(quarter or semester) personal counseling to small business owners at no charge. The program assists small business and has given valuable practical experience to the student-counselors, many of whom contemplate going into small business after graduation. It has improved college-community relations, and saved some businesses from almost certain bankruptcy.

Although participation in the SBI Program is primarily for SBA clients (loan recipients and holders of 8(a) contracts) in most localities, other business owners are frequently able to receive this service in localities where there are few SBA loan recipients.

Small Business Development Centers

Small Business Development Centers (SBDC's) were formally authorized by Public Law 96–302, although the program began on a pilot basis in 1976. SBDC's leverage government resources by drawing together university and private sector participants to provide management and other assistance to small businesses. SBA is authorized to make grants to up to 50 percent of the cost of developing and operating such centers, provided they meet certain conditions. These include conformity with an areawide plan approved by the State and by SBA, the maintenance of a full-time staff, and the capability to perform or provide certain enumerated services.

SBDC's assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters. This type of problem solving is needed by smaller concerns in order to foster growth and expansion, innovation, increased productivity, management improvement and decreased industry concentration.

Services provided by an SBDC include: one-on-one counseling; assisting in technology transfer; maintaining information pertaining to Federal, State, and local regulations and providing assistance to small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with the financial and investment communities and small business groups; conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality; and maintaining lists of local and regional private consultants and testing laboratories to which smaller businesses may be referred for assistance.

APPENDIX

SBA ACTIVITY LEVELS, FISCAL YEARS 1979–83

[In millions of dollars]

	1979 actual	1980 actual	1981 actual	1982 actual	1983 program
Regular business loans:					
Direct and immediate participation	218	219	205	115	85
Guaranteed	2,573	2,961	2,805	1,517	2,510
Total	2,791	3,180	3,010	[1] 1,631	2,595
Handicapped assistance loans:					
Direct and immediate participation	21	20	25	13	15
Guaranteed	1	([2])	2	1	5
Total	22	20	27	14	20
Economic opportunity loans:					
Direct and immediate participation	62	63	49	22	45
Guaranteed	34	25	20	13	60
Total	96	88	69	35	105
Solar and energy conservation loans:					
Direct and immediate participation	11	14	7	1	5
Guaranteed	2	11	7	1	15
Total	13	[1] 26	14	[1] 3	20
Vietnam and disabled veterans loans:					
Direct					25
Guaranteed					
Total					25
Development company loans:					
Direct and immediate participation	42	45	6		
Guaranteed	31	30	67	100	250
Total	73	75	73	100	250
Small business investment companies:					
Direct and immediate participation	22	32	41	26	35
Guaranteed	87	149	160	134	160
Total	109	181	201	160	195
Business loan and investment fund:					
Direct and immediate participation	376	393	333	177	210
Guaranteed	2,728	3,176	3,061	1,766	3,000
Total	3,104	3,569	3,394	[1] 1,942	3,210
Disaster loans:					
Physical	1,375	1,118	1,473	237	([3])
Nonphysical	34	119	49		
Total	1,409	1,237	1,522	237	([3])
Pollution bond guarantees	40	99	100	51	250
Surety bond guarantees	1,391	1,534	1,382	764	1,200
Salaries and expenses:					
Disaster loan making	21.2	23.2	23.3	15.1	[4] 25.6
All other	171.0	193.2	201.9	211.1	218.0
Total	192.2	216.4	[1] 225.3	226.2	243.6
OMB imposed employment ceiling	[5] 4,715	[6] 4,807	[7] 4,558	[8] 4,036	3,910

[1] Rounding accounts for discrepancy.
[2] $300,000.
[3] Open ended subject to availability of funding.
[4] Includes disaster loan servicing.
[5] Less 343 vacancies.
[6] Less 373 vacancies.
[7] Less 283 vacancies.
[8] Less 25 vacancies.